

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF IPUC RESPONSE TO)
FCC ORDER ON REVIEW OF SECTION 251)
UNBUNDLING OBLIGATIONS OF)
INCUMBENT LOCAL EXCHANGE)
CARRIERS (CC DOCKET NO. 01-338))**

CASE NO. GNR-T-03-22

**NINETY-DAY REVIEW OF SWITCHING ON)
HIGH CAPACITY LOOPS)**

**NOTICE OF INTENT TO ADOPT
FCC PRESUMPTION OF NON-
IMPAIRMENT**

YOU ARE HEREBY NOTIFIED that, on June 17, 2003, this Commission opened two dockets, Case No. GNR-T-03-22 (90-day review) and Case No. GNR-T-03-23 (Nine-Month Review on Economic and Operational Impairment Regarding Access to Specific UNES) in response to the Federal Communication Commission's recently adopted order clarifying network unbundling obligations for incumbent local exchange carriers (ILECs). The FCC Order, commonly referred to as the Triennial Review Order,¹ requires, in part, that state utility commissions take an active part in determining whether or not competitive carriers' ability to provide services are impaired by not having access to particular network elements of ILECs. The FCC also established deadlines for the states to make certain determinations.

YOU ARE FURTHER NOTIFIED that, in this proceeding, the Commission is addressing the FCC's presumption that a competing carrier's ability to provide services is not impaired without access to switching on high capacity loops. Based on its presumption, the FCC concluded that switching for business customers served by high capacity loops such as DS-1 (and above) need not be made available to competitive carriers as an unbundled network element.

YOU ARE FURTHER NOTIFIED that the FCC provided states an opportunity to determine whether its presumption of non-impairment is valid in each state. The FCC allowed

¹ Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 01-338, 98-147, 96-98, Report and Order and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug 21, 2003) (Triennial Review Order).

only 90 days from the effective date of the Triennial Review Order – until December 30, 2003 – to rebut its presumption of non-impairment.² The FCC also delegates to the states the authority to conduct ongoing reviews, to be completed within six months of the filing of a petition for such review.³

YOU ARE FURTHER NOTIFIED that this Commission, absent evidence of impairment presented by Idaho CLECs, intends to accept the presumption adopted by the FCC, that is, that competitive carriers' ability to provide services in Idaho is not impaired without access to the ILEC's local circuit switching on high capacity loops such as DS-1 and above.⁴

YOU ARE FURTHER NOTIFIED that any interested party that intends to present evidence challenging the FCC's findings of non-impairment must file a notice with the Commission no later than Friday, October 10, 2003. Notices should contain a brief statement of reasons why the party is impaired and the specific locations where impairment is taking place, and provide a proposed procedural schedule, including hearing dates, for the Commission to receive the evidence and make a determination within the time provided by the FCC. Notices can be filed with the Commission Secretary at:

COMMISSION SECRETARY
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST
BOISE, ID 83702-5983

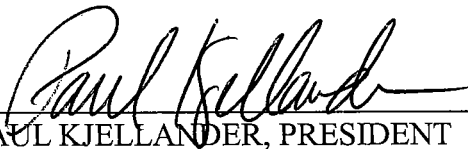
If no notices are filed, the Commission will notify the FCC that its presumption of non-impairment is valid for CLECs in Idaho.

² 47 C.F.R. pt. 51.319(d)(5)(i).

³ 47 C.F.R. pt. 51.319(d)(5)(ii).

⁴ Most DS-1 Customers are typically medium or large business customers with high demand for a variety of sophisticated telecommunications services that use loops with DS1 capacity and above.

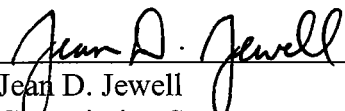
Dated at Boise, Idaho this 25th day of September 2003.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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